

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-23134-2020

Date of decision:04.11.2020

Kishore Kumar Dhiman

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Ramneek Vasudeva, Advocate for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.62 dated 20.07.2020 registered under Sections 380,427,452,448,201,506,120-B IPC (Sections 420 IPC and 411 IPC added subsequently) at Police Station City Kurali, District S.A.S. Nagar.

On 10.09.2020, a Coordinate Bench of this Court passed the following order:-

“Heard through video conferencing.

This is a petition filed under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail in FIR No.62 dated 20.07.2020 under Sections 380, 427, 452, 448, 201, 506, 120-B of the Indian Penal Code, 1860 (Sections 420 and 411IPC added subsequently) registered at Police Station City Kurali, District SAS Nagar (Punjab).

The allegations in the FIR are that on 18.04.2006, Kishore Kumar son of Kehar Singh had entered into an agreement to sell with the complainant and one Gurbachan Singh s/o Mohinder Singh qua house measuring 0-3-1/3 Marlas as per Khata No.2655/3007 and Khasra No.43//44/1/2 (3-3) share 10/189 0-3-1/3 Marlassituated in Kurali for a sum of Rs.6,50,000/- and on 18.04.2006 the said

Kishore Kumar received the said amount of Rs.6,50,000/ in cash. On 18.04.2006 General Power of Attorney bearing Vasika No.140 dated 18.04.2006 (registered on 19.04.2006) was also executed by Kishore Kumar in favour of the complainant as well as Gurbachan Singh and possession was also handed over to the complainant and Gurbachan Singh. It has been further alleged that on 19.07.2020 at around 11:00 AM the complainant and Gurbachan Singh came to Kurali in order to visit their house and saw that the accused persons in connivance with each other were vandalizing the house in their possession with the help of labour and mason. It was further alleged that they have also stolen the main gate, iron shutter and three iron windows and in place of windows have put bricks. It is further alleged that the complainant and Gurbachan Singh have also come to know that the said Kishore Kumar had also executed a transfer deed of the above said house in the name of his son Vikas Dhiman in the office of Sub-Registrar Kharar on 20.08.2018 and on the said transfer deed Yogesh Dhiman has put his witness.

Learned counsel for the petitioner has contended that the dispute in the present case is primarily of civil nature and that the complainant and Gurbachan Singh have filed a Civil Suit No.554 of 2020 (Annexure P-6) for decree of declaration to the effect that the plaintiffs therein had become owners in actual possession of House No.162, Ward No.3 constructed on land measuring 0-3-1/3 marla being 10/189 share of land comprised Khata No.2655/3007 Khasra No.43//44/1/2 (3-3) share 10/189 0-3-1/3 situated at Kurali, Tehsil Kharar bounded as: East–House of Madan Gopal side 60', West public street Side 60', North Public roadside 15', South house of Kishore Kumar side 15' on the basis of agreement to sell dated 18.04.2006 upon its full and final payment of sale consideration vide receipt to Kishore Kumar, the then owner/seller of the suit property.

Learned State counsel has filed a status report wherein it has been stated in paragraph No.3 that recoveries of one iron shutter and 3 steel doors had been made from Yogesh Dhiman who has since been granted regular bail and there were no further recoveries to be made. It has further been stated in the affidavit that Section 201IPC was deleted on 24.07.2020.

Complainant, who has joined the Video Conferencing session in person, has stated that the recoveries made are not of the stolen items and that the shutter which was stolen from the house is much bigger in size.

List on 04.11.2020.

Meanwhile, the petitioner is directed to join investigation as and when called for. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing

adequate surety and personal bonds to the satisfaction of the Arresting Officer. The petitioner shall abide by all the terms and conditions as specified in Section 438(2) of the Code of Criminal Procedure, 1973. Additionally, the petitioner shall also give his specimen signatures for comparison inasmuch as the contention of the petitioner is that the signatures on the agreement to sell in favour of the complainant and Gurbachan Singh are forged and fabricated.”

Learned counsel for the petitioner submits that pursuant to the order dated 10.09.2020 passed by this Court, the petitioner has joined the investigation.

At the outset, learned State counsel, on instructions from ASI Lakhbir Singh, submits that though the petitioner has joined the investigation on 02.10.2020 yet he is not cooperating with the Investigating Agency and recovery is still to be effected from the petitioner.

At this stage, learned counsel for the petitioner points out that in the order dated 10.09.2020 passed by a Coordinate Bench, learned State counsel while referring to the status report had specifically stated that recovery of one iron shutter and three steel doors had been made from Yogesh Dhiman, who was already granted regular bail.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the order dated 10.09.2020 granting interim bail to the petitioner, is made absolute, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure.

04.11.2020

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(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No